

REMARKS

The Office Action dated May 14, 2008 has been received and carefully noted. The above amendments and the following remarks are being submitted as a full and complete response thereto. Claims 1-14 and 16 are pending in this application. By this Amendment, claims 1-8, 10-14 and 16 are amended for clarification purposes, claim 9 is amended to incorporate the subject matter of claim 15, and claim 15 is cancelled without prejudice to or disclaimer of the subject matter disclosed therein. Additional support for the amendments to claims 1 and 9 can be found in the originally filed application, such as, for example only, page 9, lines 32-34. No new matter has been added. Reconsideration of the application is respectfully requested.

The Office Action rejects claims 5-8 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 5-8 are amended in a manner believed to be responsive to the rejection. Accordingly, withdrawal of the rejection of the claims under 35 U.S.C. § 112, second paragraph, is respectfully requested.

The Office Action objects to claims 7 and 8 as being in improper multiple dependent claim form. Claims 7 and 8 are amended in a manner believed to be responsive to the objection. Accordingly, withdrawal of the objection to the claims is respectfully requested.

The Office Action rejects claims 1-5 and 7-8 under 35 U.S.C. 103(a) as being obvious over Applicant's Admitted Prior Art (AAPA) in view of U.S. Patent No. 5,533,514 to Lavigne et al. (Lavigne) and U.S. Patent No. 5,022,407 to Horch et al. (Horch); claim 6 under 35 U.S.C. 103(a) as being obvious over AAPA and Lavigne in view of Horch

and further in view of U.S. Patent No. 5,938,690 to Law et al. (Law); claim 7 under 35 U.S.C. 103(a) as being obvious over AAPA and Lavigne in view of Horch and further in view of U.S. Patent No. 2,122,556 to Buffalow (Buffalow); claims 9-14 and 16 under 35 U.S.C. 103(a) as being obvious over AAPA and Lavigne in view of Buffalow; and claim 15 under 35 U.S.C. 103(a) as being obvious over AAPA and Lavigne in view of Buffalow and further in view of Horch. The cancellation of claim 9 renders its rejection moot. With respect to the remaining claims, the rejections are respectfully traversed.

In particular, the present application claims a device suitable for effecting instant pain relief on pain-spasm-pain neurological reflex cycles that cause pain and functional disability in muscles including a stimulator tip, a vibrator tip located within 25 mm of the stimulator tip and an indication means for enabling the patient to inform the device of actual golgi tendon pain pressure threshold, as recited in amended claim 1.

The present application also claims a method of diagnosing and treating pain and functional disability in muscles suffering acute and chronic soft tissue disorders that includes locating golgi tendons (GT) in muscles with PSP continuous reflex cycles by using a stimulator tip, applying pressure to the GT points on the damaged muscles via a generally spherical vibrator tip located within 25 mm of the stimulator tip attached to a tensiometric instrument, measuring GT pain pressure threshold on the GT receptors whence the patient feels the pain associated with the applied pressure, and applying a gradually increasing pressure to the GT points by turning a vibrator on when applied pressure in the treatment phase exceeds GT pain pressure threshold, as recited in amended claim 9.

The Office Action admits that AAPA and Lavigne fail to disclose or suggest a vibrator tip (Office Action, page 4, lines 8-9) or a spherical tip (Office Action, page 6, lines 18-19), and relies on Horch and Buffalow to cure these deficiencies.

However, Horch teaches an automatic apparatus for testing tactile responses of a patient (Abstract), and the Office Action argues that it would have been obvious to combine the teachings of Horch with the teachings of Lavigne and AAPA (Office Action, page 4, lines 12-14). However, neither AAPA, Lavigne nor Horch, taken separately or together, disclose or suggest that a stimulator tip and a vibrator tip are located within 25 mm of each other, as recited in amended claims 1 and 9. Neither AAPA, Lavigne nor Horch suggest that a vibrator tip would be desirable to inhibit the pain generated by the stimulator tip. There would be no motivation to combine the actions of a vibrator tip to Lavigne's stimulator tip, and there is no motivation to provide a vibrator tip within 25 mm of the stimulator tip, to arrive at the subject matter of amended claims 1 and 9.

Buffalow teaches a vibratory massager arm having ball or roller means to move over and massage spinal tissues and feet (Column 1, lines 1-6), and the Office Action argues that it would have been obvious to combine the teachings of Horch with the teachings of Lavigne and AAPA (Office Action, page 7, line 21 to page 8, line 4) to arrive at the subject matter of claim 9. However, neither AAPA, Lavigne nor Buffalow, taken separately or together, disclose or suggest that a stimulator tip and a vibrator tip are located within 25 mm of each other, as recited in amended claims 1 and 9. Neither AAPA, Lavigne nor Buffalow suggest that a vibrator tip would be desirable to inhibit the pain generated by the stimulator tip. There would be no motivation to combine the actions of a vibrator tip to Lavigne's stimulator tip, and there is no motivation to provide

a vibrator tip within 25 mm of the stimulator tip, as recited in amended claim 1 and 9. Thus, amended claims 1 and 9 are patentable over a combination of AAPA, Lavigne and Horch, or a combination of AAPA, Lavigne and Buffalow.

Law teaches a computer-based system and methods for use with known neuromodulations systems to assist in performance of procedures (Abstract), and fails to cure deficiencies in AAPA, Lavigne, Buffalow and Horch in disclosing or rendering obvious the features of claim 6, including the above-discussed features of amended claims 1 and 9.

Additionally, none of the applied references disclose, suggest or render obvious applying a gradually increasing pressure to the Golgi tendon points, as claimed. Furthermore, with respect to amended claim 9, none of the applied references disclose, suggest or render obvious applying a gradually increasing pressure to the GT points by turning a vibrator on when applied pressure in the treatment phase exceeds GT pain pressure threshold, as recited in amended claim 9.

For at least the reasons above, amended claims 1 and 9 are patentable over all the applied references. Claims 2-8 and 10-16, at least for their dependence on patentable claims 1 and 9, and for their added features, are also patentable over all the applied references. Thus, all the pending claims are patentable over all the applied references, and withdrawal of the rejections of the claims under 35 U.S.C. §103(a) is respectfully requested.

Should the Examiner determine that any further action is necessary to place this application into better form for allowance, the Examiner is encouraged to telephone the undersigned representative at the number listed below.

In the event this paper is not considered to be timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, referencing Attorney Docket No. 108396-00015.

Respectfully submitted,



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Attachment: Petition for Extension of Time (3 months)

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